



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

H.C.P.(MD)No.1512 of 2017

Pirakathes : Petitioner/Brother of detenue

Vs.

- 1.The Principal Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate
Nagapattinam District,
Nagapattinam.
- 3.The Superintendent of Prison
Central Prison,
Tiruchirappalli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C.O.C.No.58/2017 dated 26.08.2017 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Agastin, S/o.Mariyadoss, male aged about 47 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

ORDER

[Order of the Court was made by R.SUBBIAH, J]

The petitioner is the brother of the detenu viz., Agastin, S/o.Mariyadoss, aged about 47 years. The detenu has been detained, as per the order of the second respondent, dated 26.08.2017 in C.O.C.No.58/2017 under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner has come up with this Habeas Corpus Petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.



3. The learned counsel for the petitioner would submit that though the detention order was passed on 26.08.2017, the detenu was arrested as early as on 31.05.2017 and therefore, the detention order is vitiated and the same is liable to be set aside.

WEB COPY

4. As pointed out by the learned counsel for the petitioner, the materials on record would show that the detenu was arrested on 31.05.2017 and the detention order was passed on 26.08.2017. This delay of 3 months remains unexplained, which would vitiate the order of detention.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in C.O.C.No.58/2017 dated 26.08.2017, is quashed. The detenu, namely, Agastin, S/o.Mariyadoss, aged 47 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The District Collector and District Magistrate
Nagapattinam District,
Nagapattinam.
3. The Superintendent of Prison
Central Prison,
Tiruchirappalli
4. The Joint Secretary to Government,
Public (Law and Order), Fort Saint George, Chennai-9
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

RR

RL/6C/2p/JC/SAR1/8/1/2018

Order made in
H.C.P. (MD) No.1512 of 2017